

1 KAMALA D. HARRIS
2 Attorney General of California
3 FRANK H. PACOE

4 Supervising Deputy Attorney General
5 State Bar No. 91740
6 455 Golden Gate Avenue, Suite 11000
7 San Francisco, CA 94102-7004
8 Telephone: (415) 703-5556
9 Facsimile: (415) 703-5480
10 *Attorneys for Complainant*

11 **BEFORE THE**
12 **BOARD OF REGISTERED NURSING**
13 **DEPARTMENT OF CONSUMER AFFAIRS**
14 **STATE OF CALIFORNIA**

15 In the Matter of the Accusation Against:

Case No. **2011-728**

16 **JACQUELYN BETH MCGOWAN**
17 **20 Skylark Drive #33**
18 **Larkspur, California 94939**

A C C U S A T I O N

19 **Registered Nurse License No. 405209**

20 Respondent.

21 Complainant alleges:

PARTIES

22 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
23 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
24 Consumer Affairs.

25 2. On or about August 31, 1986, the Board of Registered Nursing issued Registered
26 Nurse License Number 405209 to Jacquelyn Beth McGowan (Respondent). The Registered
27 Nurse License was in full force and effect at all times relevant to the charges brought herein and
28 will expire on February 29, 2012, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board),
Department of Consumer Affairs, under the authority of the following laws. All section
references are to the Business and Professions Code unless otherwise indicated.

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"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

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8. Section 490 of the Business and Professions Code, in pertinent part, provides that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

9. California Code of Regulations, title 16, section 1444 provides, in pertinent part, that a conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare.

10. Section 125.3 of the Business and Professions Code, in pertinent part, provides that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE
(Conviction of a Substantially Related Crime)

11. Respondent is subject to disciplinary action under Business and Professions Code sections 490 and 2761(f), as defined by California Code of Regulations, title 16, section 1444, in

1 that respondent has been convicted of a crime substantially related to the qualifications, functions
2 or duties of a registered nurse, the circumstances are as follows:

3 a. On or about April 21, 2008, in a criminal proceeding entitled People of the State of
4 California v. Jacquelyn Beth McGowan in Sonoma County Superior Court Case No. SCR-
5 526352, Respondent was convicted by her plea of nolo contendere for violating Vehicle Code
6 section 23152(b) (driving under the influence), a misdemeanor. Additionally, pursuant to Vehicle
7 Code section 23578, a sentencing enhancement was admitted to the Vehicle Code section
8 23152(b) conviction because the respondent's blood alcohol content exceeded .15%.

9 b. The circumstances surrounding the conviction are that on or about November 22,
10 2007, at 1619 hours police officers from the Sebastopol Police Department arrived on the scene
11 of a traffic collision at a local high school. A police officer found respondent seated in the
12 driver's seat of the vehicle that had crashed into the fence post. The police officer observed that
13 respondent was the only person in the vehicle and that the front passenger seat was covered with
14 prescription medication bottles. The prescription bottles on the front passenger seat contained:
15 10mg Potassium Chloride, 150mg Effexor XR, 20mg Furosemide, 80mg Coreg CR, and 150mg
16 Wellbutrin XL. The officer smelled a strong odor of an alcoholic beverage emanating from
17 respondent's breath when she spoke. The officer noticed that respondent's speech was slow and
18 slurred and that her eyes were red and watery. The respondent admitted to the police officer that
19 she had consumed two glasses of wine. The respondent failed to pass field sobriety tests.

20 An ambulance crew arrived on the scene and determined that respondent needed further
21 medical evaluation and possible treatment. The respondent was transported to a hospital and
22 while there a blood sample was collected and submitted to the California Department of Justice
23 Laboratory for analysis. Respondent was unable to provide an adequate breath sample for a
24 Preliminary Alcohol Screening Device (PASD) test, therefore the police officer used the manual
25 capture function to collect a sample of her breath which measured .257% BAC. Subsequently,
26 respondent was arrested by officers of the Sebastopol Police Department for driving under the
27 influence of an alcoholic beverage. The forensic alcohol analysis of respondent's blood sample
28 revealed that it contained 0.35% (W/V) alcohol.

1 c. On or about April 21, 2008, the court sentenced respondent to a 48 month conditional
2 sentence, ordered her to enroll in a Multiple Offender Drinking Driver's Program, ordered her to
3 serve 90 days in the County Jail; and ordered her to pay a \$1,929.00 fine and to pay a \$100.00
4 restitution fine. Additionally, an ignition interlock device was to be installed in respondent's
5 vehicle.

6 SECOND CAUSE FOR DISCIPLINE
7 (Conviction of a Substantially Related Crime)

8 12. Respondent is subject to disciplinary action under Business and Professions Code
9 sections 490 and 2761(f), as defined by California Code of Regulations, title 16, section 1444, in
10 that respondent has been convicted of a crime substantially related to the qualifications, functions
11 or duties of a registered nurse, the circumstances are as follows:

12 a. On or about August 15, 2002, in a criminal proceeding entitled People of the State of
13 California v. Jacquelyn Beth McGowan in Marin County Superior Court, Case No. CR 124895,
14 the respondent was convicted by her plea of nolo contendere for violating Vehicle Code section
15 23152(b) (driving under the influence), a misdemeanor.

16 b. On or about June 11, 2002, the respondent was charged with violating Vehicle Code
17 section 23152(a) (driving under the influence), a misdemeanor, and violating Vehicle Code
18 section 23152(b) (driving while having a blood alcohol content of 0.08 % or more), also a
19 misdemeanor. An enhancement was admitted because respondent's blood alcohol level exceeded
20 .15% and that she had a prior 1998 conviction in Santa Cruz County Superior Court, Case No.
21 S705394, for violating Vehicle Code section 23152(a) (driving under the influence).

22 c. On or about August 15, 2002, the court suspended the imposition of the sentence and
23 placed respondent on probation for a period of 3 years, ordered her to serve 15 days in County
24 Jail; ordered her to pay a fine in the amount of \$1,745.00 and to pay a \$100.00 restitution fine;
25 and ordered her to enroll and complete a Post Conviction Drinking Driver Program.

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1 THIRD CAUSE FOR DISCIPLINE

2 (Use of an Alcoholic Beverages to an Extent or in a
3 Manner Dangerous or Injurious to Herself or Others)

4 13. Respondent is subject to disciplinary action under Business and Professions Code
5 section 2761(a) on the grounds of unprofessional conduct, as defined by Business and Professions
6 Code section 2762(b), in that respondent used alcoholic beverages to an extent or in a manner
7 dangerous or injurious to herself or others, as set forth in paragraphs 11 and 12 above.

8 FOURTH CAUSE FOR DISCIPLINE

9 (Conviction of Alcohol Related Crimes)

10 14. Respondent is subject to disciplinary action under Business and Professions Code
11 section 2761(a) on the grounds of unprofessional conduct, as defined by Business and Professions
12 Code section 2762(c), in that respondent was convicted of crimes involving the consumption of
13 alcoholic beverages, and set forth in paragraphs 11 and 12, above.

14 OTHER MATTERS

15 15. On or about June 20, 2007, in a criminal proceeding entitled *People of the State of*
16 *California* v. Jacquelyn Beth McGowan in Marin County Superior Court, Case No. CR-148934A,
17 the respondent was convicted by her plea of nolo contendere for violating Vehicle Code section
18 14601.2(a) (driving when her driving privilege has been suspended or revoked), a misdemeanor.

19 PRAYER

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Board of Registered Nursing issue a decision:

22 1. Revoking or suspending Registered Nurse License Number 405209, issued to
23 Jacquelyn Beth McGowan

24 2. Ordering Jacquelyn Beth McGowan to pay the Board of Registered Nursing the
25 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
26 Professions Code section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: 2/24/11

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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